

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Section 9
of the Communications Act

Assessment and Collection of
Regulatory Fees for the 1994
Fiscal Year

MD Docket No. 94-19

COMMENTS OF NYNEX CORPORATION

NYNEX Corporation (hereinafter "NYNEX"), by its attorneys, respectfully submits its Comments in response to the Notice of Proposed Rulemaking (hereinafter "Notice") released by the Commission on March 11, 1994, in the above-captioned proceeding.

I. INTRODUCTION AND SUMMARY

In the Notice, the Commission proposes to implement Section 9 of the Communications Act of 1934, added by section 6003(a) of the Omnibus Budget Reconciliation Act of 1993 (hereafter "Budget Act")¹ which requires the Commission to collect fees and to prescribe appropriate rules and regulations to carry out this function.² The Commission proposes to

¹ Pub. L. No. 103-66, Title VI, § 6002(a), 107 Stat. 397.

² Section 9 is codified at 47 U.S.C. § 159.

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assess and collect fees from common carriers, cable television operators and other regulated communications entities, in order to recover costs associated with its enforcement, policy rulemaking and other activities. The Commission's stated goals in this proceeding are "to ensure that the fee collection process does not have an adverse impact on (its) regulatory activities; that fees are collected and deposited in the most cost effective manner possible; and that fees impose little or no additional paperwork burden on the public."³

The Commission proposes to collect regulatory fees in three categories: standard fees to be paid in full annually; small fees to be paid at the beginning of and for each year of the affected license terms; and, large fees which may be paid in installments. The Commission defines large fees as those which exceed the average annual fee for regulatees in a particular category. For fiscal year 1994, the Commission proposes fees exceeding \$500,000 for interexchange carriers and exceeding \$700,000 for local exchange carriers as amounts which it considers large enough to warrant installment payments. The payment due dates for 1994 are to be announced in a subsequent

³ Notice at para. 2. The Commission proposes to exempt governmental agencies, amateur radio licensees, non-profit entities and public safety radio and special emergency radio operators from fee obligations. It further proposes that an annual regulatory fee of \$60 per 1,000 subscribers would be assessed to cellular, public mobile, and PCS licensees. Interexchange carriers, LECs and CAPs would also pay a \$60 fee per 1,000 access or presubscribed lines and cable TV operators would pay \$370 per 1,000 subscribers. The Commission also proposes to assess a fee of \$200 per 100 active 64 kilobit or equivalent international circuits.

notice. In the Notice, the Commission seeks comment on several issues including, for example, whether large fee payors should be allowed to make payments in four or more installments after fiscal year 1994 and whether fees for local exchange companies should be assessed on a holding company or operating company basis.

NYNEX does not oppose the adoption of equitable rules designed to accomplish the Commission's fee collection mandate in a manner that is easy to administer and verify and simple to apply. We believe that the rules proposed by the Commission in the Notice are generally sound and, with some modification, will effectively accomplish the Commission's task. The Commission should, however, clarify the Notice's discussion of the means for calculating the number of lines for purposes of fee calculation and the time frames for making such calculations. We believe that the Commission should make it clear that, for purposes of fee calculation for local exchange carriers, the term "lines" should be defined as revenue producing end user common lines provided by a carrier to an end user from which the carrier receives compensation.⁴ NYNEX further believes that fee calculations are most appropriately made on a holding company level.⁵ In addition, the

⁴ For simplicity and ease of administration the lines to be used in the fee formula by TIER I LECs should be defined as "billable access lines" as that term is used in ARMIS 43-04 Reports.

⁵ In CC Docket 94-18, the Commission is considering the formation of a Federal Advisory Committee to formulate rules and procedures that would facilitate the electronic

Commission should make it clear that the payment of regulatory fees are eligible for exogenous treatment under price cap rules.⁶

II. THE NUMBER OF SUBSCRIBER LINES FOR PURPOSES OF FEE CALCULATION SHOULD BE DEFINED AS BILLABLE LINES

The Notice fails to specify how the term "subscriber lines" should be defined for purposes of fee calculation for local exchange carriers. We believe that the Commission should define the term to include billable end user common lines, or lines for which compensation is received. This definition will ensure that the Commission will receive fees that are adequate to permit recovery of its administrative activities. Moreover, this approach would be simple to administer and easy to enforce inasmuch as many carriers subject to the fee payment

5 (Footnote Continued From Previous Page)

filing of Bureau Applications among other items. NYNEX strongly supports this proposal and asks that the Commission consider placing responsibility for the implementation of fee collection within the scope of this committee's responsibilities. This approach would allow the Commission to coordinate its electronic filing and fee collection activities and, thus, could maximize administrative efforts devoted to these activities. Further, such coordination enhances the possibility of electronically integrating both the filing of applications, licenses, etc., and the payment of licenses and other fees. Not only would electronic filing and payment streamline the process and reduce administration costs, but it could potentially reduce or eliminate the potential for late or misplaced payments.

6 On April 1, 1994 Bell Atlantic, under Transmittal No. 644, filed for exogenous cost treatment of the regulatory fees in their Annual Price Cap Filing, Description and Justification, page 1-4.

obligations must already compile this data in connection with Annual Reports and ratemaking activities.

We believe that a calendar year-end is the most appropriate time frame for purposes of calculating the number of lines provided for compensation. Use of a calendar year-end is consistent with general accounting practices used by most companies and is consistent with Annual Reports, tax assessment and financial records used for ratemaking purposes. In addition, this approach is easy to administer, easy to verify and simple to apply since it avoids unnecessary calculations and projections. NYNEX supports the Commission's proposal to permit large fee payors to make fee payments in a single payment or in two payments for fiscal year 1994. For future years, we believe that large fee payors should be permitted to make a single payment or four installment payments based on the number of subscriber lines provided for compensation.

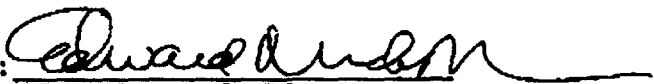
III. THE FEE PAYMENT OBLIGATION SHOULD BE ASSESSED ON A HOLDING COMPANY BASIS

In paragraph 30 of the Notice, the Commission seeks comment on whether fees should be assessed on an operating or holding company basis. NYNEX believes that fee obligations should be assessed on a holding company basis by service category. By requiring companies to file one report by service category and make one payment on a holding company basis, rather than for each separate entity, the Commission would reduce the quantity of filings and payments each company must submit and the Commission must review and process. Moreover,

this approach is consistent with other data compiled by companies, such as Annual Reports, state certifications and tax reporting requirements. Furthermore, this approach, by aggregating data, would avoid the possibility of disclosure of information that may be used by competitors to determine market share and other commercially sensitive data. Regardless of the method adopted by the Commission, to the extent that a carrier is required to submit any competitively sensitive information or any data that is not currently provided to the public, the Commission should permit carriers to provide such data under protection of confidentiality.

Respectfully submitted,

NYNEX CORPORATION

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